IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

CRP.No. 589 of 2007(A)

OP(ELE.)47/2000 of ADDL.DISTRICT COURT,KOTTAYAM
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REVN. PETITIONER: RESPONDENT

KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY, VYDYUTHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENTS: PETITIONER

JOSEPH MATHEW, S/O JOSEPH,
AGED 70, RES. AT PAZHOOR HOUSE,
KIZHATHADIYOOR KARA, LALAM VILLAGE,
MEENACHIL TALUK.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 589 OF 2007

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Dated this the 16th day of October, 2007.

O R D E R

This revision petition is preferred against the award of the Addl. District Judge, Kottayam whereby an additional compensation of Rs.30,137/- has been granted. The Court below has applied the principle laid down by this Court in the decision reported in ***Kumba Amma v. K.S.E.B. (2000 (1) KLT 542)*** whereby a direction has been given by this Court how to fix the annuity. In the light of the decision reported in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***) the Apex Court held that each case requires independent consideration and it further held that,

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a

given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

2. In the light of this Court's decision the matter has to be reconsidered by the Court below and an opportunity has to be given to both sides to convincingly establish regarding the actual loss that is caused to the party and therefore the order under challenge is set aside and the matter is remitted back to the Court below for fresh consideration after permitting both sides to adduce evidence in support of their respective contentions. Parties are directed to appear before the Court below on 17.11.2007.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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